SUBSTITUTE

RESOLUTION No. 36897

Establish as a position of the Portland City Council that corporations should not have the constitutional rights that natural persons possess, that money is not speech and that independent campaign expenditures and campaign contributions should be regulated (Resolution)

WHEREAS, each year, the City of Portland updates its Federal Legislative Agenda; and,

WHEREAS, the United States Constitution and the Bill of Rights are intended to protect the rights of individual human beings also known as "natural persons"; and,

WHEREAS, corporations can and do make important contributions to our society, but the City Council does not consider them natural persons; and,

WHEREAS, while state and federal governments may provide certain privileges to corporations, these privileges do not equate to the rights of natural persons protected by the U.S. Constitution; and,

WHEREAS, the right to free speech is a fundamental freedom and unalienable right and free and fair elections are essential to democracy and effective self-governance; and,

WHEREAS, United States Supreme Court Justice Hugo Black in a 1938 opinion stated, "I do not believe the word 'person' in the Fourteenth Amendment includes corporations"; and,

WHEREAS, the United States Supreme Court held in *Buckley v. Valeo* (1976) that the appearance of corruption justified limits on contributions to candidates, but rejected other fundamental interests that the City Council finds compelling such as creating a level playing field and ensuring that all citizens, regardless of wealth, have an opportunity to have their political views heard; and,

WHEREAS, the United States Supreme Court in *Buckley* overturned limits on independent campaign expenditures by individuals, associations, and political action committees because it found that the government's interest in preventing corruption or perception of corruption of elections was sufficient only to allow limits on direct contributions to candidates; and,

WHEREAS, United States Supreme Court Justice John Paul Stevens observed in *Nixon v. Shrink Missouri Government PAC* (2000) that "money is property, it is not speech,"; and,

WHEREAS, the United States Supreme Court recognized in *Austin v. Michigan Chamber of Commerce* (1990) the threat to a republican form of government posed by "the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas" and upheld limits on independent expenditures by corporations; and

WHEREAS, the United States Supreme Court in *Citizens United v. The Federal Election Commission* (2010) overruled the decision in *Austin* and the portion of *McConnell v. Federal Election Commission (2003)* that had upheld restrictions on independent corporate expenditures, holding that the First Amendment protects unlimited direct corporate spending to influence elections, candidate selection, and policy decisions and to sway votes; and,

WHEREAS, prior to *Citizens United* decision unlimited independent campaign expenditures could be made by individuals and associations, though such committees operated under federal contribution limits; and,

WHEREAS, given that the *Citizens United* decision "rejected the argument that political speech of corporations or other associations should be treated differently" because the First Amendment "generally prohibits the suppression of political speech based on the speaker's identity," there is a need to consider other reasons in addition to corruption or the perception of corruption regulating independent expenditures for or against a candidate; and,

WHEREAS, a February 2010 Washington Post-ABC News poll found that 80 percent of Americans oppose the U.S. Supreme Court *Citizens United* ruling that allowed use of corporate treasury dollars for independent expenditures; and,

WHEREAS, the opinion of the four dissenting justices in *Citizens United* noted that corporations have special advantages not enjoyed by natural persons, such as limited liability, perpetual life, and favorable treatment of the accumulation and distribution of assets; and,

WHEREAS, corporations are legally required to put profits for shareholders ahead of concerns for the greatest good of society while individual shareholders as natural persons balance their narrow self-interest and broader public interest when making political decisions; and,

WHEREAS, Oregon Senator Jeff Merkley and Oregon Representatives Peter DeFazio, Earl Blumenauer, and Kurt Schrader are pursuing campaign finance reform legislation with a focus on addressing *Citizens United* through amendments to the United States Constitution; and,

WHEREAS, addressing both the *Citizens United* decision, and corporate personhood is necessary; and,

WHEREAS, the City Councils of Missoula, Montana; Boulder, Colorado; and Madison, Wisconsin have referred the issue of corporate personhood to their communities for an advisory vote;

NOW, THEREFORE, BE IT RESOLVED that it is the position of the Portland City Council that corporations should not have the constitutional rights that natural persons possess; and,

BE IT FURTHER RESOLVED given its impact on free and fair elections and effective self-governance that Portland City Council determines that the most urgent action needed to address the negative impacts of United States Supreme Court *Citizens United (2010)* decision is to stop unlimited independent campaign expenditures by corporations; and,

BE IT FURTHER RESOLVED that the City of Portland hereby includes in its 2012 Federal Legislative Agenda support for an Amendment to the United States Constitution, which consistent with this Resolution, reverses the impacts of *Citizens United,* including, but not limited to the provisions of the current drafts of S. J. Res. 29 introduced by Senator Tom Udall of

New Mexico and Senator Jeff Merkley of Oregon and H.J. Res. 72 introduced by Representative Kurt Schrader of Oregon and co-sponsored by Representatives Earl Blumenauer and Peter DeFazio of Oregon; and, respectfully urges Oregon's Congressional delegation to prioritize congressional proposal of an amendment to the United States Constitution addressing the threats to representative government identified in this resolution so that the states may ratify it; and,

BE IT FURTHER RESOLVED that Portland City Council requests that the City Attorney's Office determine the legality and process of referring an advisory vote to the citizens of Portland on the issue of corporate personhood, and present their findings within 30 days to the Council for further consideration; and

BE IT FURTHER RESOLVED that the City of Portland calls on other communities and jurisdictions and organizations like the U.S. Conference of Mayors and National League of Cities to join with us in this action by passing similar Resolutions.

Adopted by the Council: JAN 12 2012

Mayor Sam Adams
Prepared by: Clay Neal & Jennifer Yocom
Date Prepared: January 5, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland
By Susan Lawson
Deputy

S-49.

SUBSTITUTE

Agenda No.
RESOLUTION NO. 36897
Title

Establish as a position of the Portland City Council that corporations should not have the constitutional rights that natural persons possess, that money is not speech and that independent campaign expenditures and campaign contributions should be regulated. (Resolution)

INTRODUCED BY Commissioner/Auditor: **Mayor Sam Adams**	CLERK USE: DATE FILED JAN 10 2012
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Adams	By: _____ Deputy
Position 1/Utilities - Fritz	**ACTION TAKEN:**
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Office of the Mayor Bureau Head: Mayor Sam Adams	
Prepared by: Jennifer Yocom Date Prepared:January 10, 2012	
Financial Impact & Public Involvement Statement Completed ☒ Amends Budget ☐	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes ☐ No ☒	
Council Meeting Date **January 12, 2012**	
City Attorney Approval: required for contract, code. easement, franchise, charter, Comp Plan	

AGENDA
TIME CERTAIN ☒ **Start time: 2:00pm** **Total amount of time needed: 1 hour** (for presentation, testimony and discussion)
CONSENT ☐
REGULAR ☐ **Total amount of time needed:** _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	—	
3. Saltzman	3. Saltzman	—	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	